

ORDINANCE No.

118092

COUNCIL BILL No.

111198

AN ORDINANCE relating to cable television, authorizing the City to execute a franchise extension agreement with United American Antenna System, Inc. (U.A.S. Cablevision - Lincoln).

Law Department

INDEXED

The City of Seattle--Le

REPORT OF C

Honorable President:

Your Committee on TECHNOLOGY & TELECOMMUNICATIONS
to which was referred the within Council Bill No. 111198
report that we have considered the same and respectfully

4/11/96

COMPTROLLER FILE No.

Introduced:	APR - 8 1996	By:	PODLODOWSKI
Referred:	APR - 8 1996	To:	Technology & Telecommunications Committee
Referred:		To:	
Referred:		To:	
Reported:	APR 15 1996	Second Reading:	APR 15 1996
Third Reading:	APR 15 1996	Signed:	APR 15 1996
Presented to Mayor:	APR 15 1996	Approved:	APR 18 1996 <u>4/18/96</u>
Returned to City Clerk:	APR 18 1996	Published:	<u>full</u>
Vetoed by Mayor:		Veto Published:	
Passed over Veto:		Veto Sustained:	

Full Council

Committee

SMEAD 73 YSP 17117

Department

INDEXED

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

Honorable President:

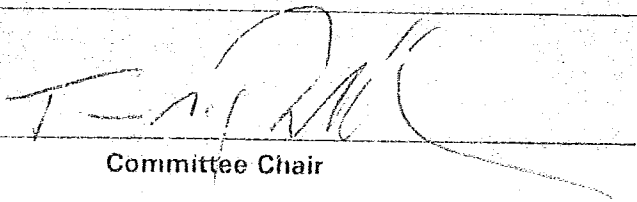
Your Committee on TECHNOLOGY & TELECOMMUNICATIONS Ad Hoc

to which was referred the within Council Bill No. 11128

report that we have considered the same and respectfully recommend that the same:

4/11/96 DO PASS 2-0

Full Council vote 7-0



Committee Chair

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE, IT IS DUE TO THE QUALITY OF THE DOCUMENT.

SH:jk
4/2/96

ORDINANCE 118092

AN ORDINANCE relating to cable television, authorizing the Mayor to execute a franchise extension agreement with United Community Antenna System, Inc. d/b/a Viacom Cablevision (Viacom).

WHEREAS, the renewal of certain cable television franchises is governed by 47 U.S.C. 521 et seq., the federal Cable Act; and

WHEREAS, the City of Seattle has been engaged in the informal process for cable franchise renewal with Viacom as authorized by 47 U.S.C. 546(h); and

WHEREAS, the City has reached agreement with TCI of Seattle, Inc., and Summit Communications, Inc. for 10 year franchises that call for, among other things, a franchise fee of 5% of gross revenues, with a partial credit for utility taxes; and

WHEREAS, Viacom and the City have completed substantial refranchise negotiations that include compensation at a level comparable to that paid by TCI and Summit, and that are memorialized in a Memorandum of Understanding; and

WHEREAS, Viacom seeks to suspend negotiations in anticipation of its transfer of control to TCI Communications, Inc.; and

WHEREAS, the City has agreed to suspend negotiations so long as 1) Viacom commences payment of a franchise fee of 5% of gross revenues, with applicable credits for utility taxes in accordance with the conditions of the Memorandum of Understanding; and 2) the Memorandum of Understanding forms the basis for renewed franchise negotiations should the TCI transfer not take place; and

WHEREAS, the City believes that it is in its best interest to extend the existing franchise to allow full opportunity to reach an agreement on the terms and conditions of a renewed franchise should the transfer not take place; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Mayor of the City of Seattle is authorized to execute a cable television franchise extension agreement in substantially the form set forth in Exhibit A with Viacom.

Section 2. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
3 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 15 day of April, 1996, and signed by me in
5 open session in authentication of its passage this 15 day of April, 1996.

6
7 Jan Drago
8 President of the City Council

9 Approved by me this 18 day of April, 1996

10
11 Norman Bruce
12 Mayor

13 Filed by me this 18 day of April, 1996.

14
15 Jessie E. Pappin
16 City Clerk

17
18 ref F&A Ordinance/Agreement #1 (VIACOM 5)

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
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AGREEMENT FOR EXTENSION OF CABLE FRANCHISE

WHEREAS, The City of Seattle ("City") and United Community Antenna System, Inc. d/b/a/ Viacom Cablevision ("Viacom") have been engaged in the informal process for cable franchise renewals as authorized by 47 U.S.C. 546(h); and

WHEREAS, the current cable franchise expired in August 1994, and has been extended via interim franchise agreements and, on a month-to-month basis, by the concurrence of the parties; and

WHEREAS, Viacom has requested a further extension of the franchise to August 1, 1996, to determine whether Viacom's proposed transfer of control of its cable assets to TCI will eliminate the need for further negotiations; and

WHEREAS, in consideration for the extension, the parties have agreed that commencing April 1, 1996, Viacom will pay to the City a five percent (5%) franchise fee as compensation for use of the public rights of way, and will in turn be eligible for a credit against the fee as set forth in Sections 9-11 of the parties' Memorandum of Understanding; and

WHEREAS, the parties have agreed that should the transfer not take place by August 1, 1996, the parties will commence negotiations based on the Memorandum of Understanding, with the goal of completing franchise renewal negotiations within 90 days thereafter; Now, Therefore,

THE PARTIES AGREE AS FOLLOWS:

1. The existing cable TV franchises granted by the City to Viacom pursuant to Ordinances 107433 and the dates for expiration of said franchise under Ordinance 116717, Ordinance 117195, Ordinance 117361, Ordinance 117459, Ordinance 117505, and Ordinance 117605 shall be extended to August 1, 1996 (or any earlier date mutually agreed upon by the parties)
2. Commencing April 1, 1996, and for the term of this extension thereafter, Viacom shall pay to the City a franchise fee of five percent (5%) of gross revenues, consistent with the terms and conditions of the parties' Memorandum of Understanding.
3. If the transfer of control to TCI, as approved in Ordinance 118004, does not occur by August 1, 1996, the parties will commence franchise negotiations. The Memorandum of Understanding shall provide the basis for these negotiations, and the parties will make a good faith effort to complete negotiations by October 31, 1996.

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4. The parties specifically agree that this extension shall not be deemed a new franchise.
5. Claims the City or Viacom may have against each other under any provision of the franchise or applicable laws are not released or otherwise affected by this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this to be executed by having their authorized representatives affix their signatures below:

United Community Antenna System, Inc.
d/b/a Viacom Cablevision

City of Seattle

By _____

By _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 1994, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that (s)he has been authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate first above-written.

Notary Public in and for the State of
Washington, Residing at: _____
My Commission Expires ____.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

On this ____ day of _____, 1994, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that (s)he has been authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

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Notary Public in and for the State of
Washington, Residing at: _____
My Commission Expires ____.

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City of Seattle
Department of Administrative Services

Kenneth J. Nakatsu, Director
Norman B. Rice, Mayor



MEMORANDUM

April 2, 1996

TO: Honorable Jan Drago, President
Seattle City Council

VIA: Tom Tierney, Office of Management and Planning

FROM: Ken Nakatsu, Director *KJN*
Department of Administrative Services

SUBJECT: Legislation Extending Cable Television Franchise

Attached for your consideration is legislation that will extend the cable television franchise held by Viacom Cablevision. Currently, Viacom has been operating on a month to month basis pending the sale of the company's assets to TCI. That sale transfer has been delayed for several months pending the issuance of certain tax opinions by the IRS.

In view of this delay, Councilmember Podlodowski has requested that this department introduce legislation to authorize the City to begin collecting a franchise fee from Viacom under the same terms and conditions as the fee paid by Summit and TCI in TCI's operating area. This provision is effective April 1, 1996, and has been agreed to by Viacom.

This legislation also extends the current franchise to August 1, 1996. Viacom has advised that the transfer will be completed by that time. In the event the transfer does not take place, the legislation commits the parties to recommence franchise negotiations after August 1, 1996, based on an agreed upon Memorandum of Understanding, with the goal of completing negotiations by October 31, 1996.

If you have any questions on the foregoing, please contact me or Matt Lampe at 684-0504.

KJN:sh:bck

Attachments

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An equal employment opportunity - affirmative action employer

City of Seattle - Department of Administrative Services, 12th Floor Alaska Building, 618 Second Avenue, Seattle, Washington 98104-2214 (206) 386-1234

"Printed on Recycled Paper"

ROUTING SLIP REQUEST FOR LEGISLATIVE ACTION

Originating Department: Administrative Services

Council Sponsor:

Date: April 2, 1996

Subject: AN ORDINANCE relating to cable television, authorizing the Mayor to execute a franchise extension agreement with United Community Antenna System, Inc. d/b/a Viacom Cablevision (Viacom).

	<u>Date Received</u>	<u>Date Forwarded</u>
OMP:		
Law:	4/2/96	4/2/96

Legislation should be rerouted in the order listed.

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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

April 2, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT Administrative Services

SUBJECT: AN ORDINANCE relating to cable television, authorizing the Mayor to
execute a franchise extension agreement with United Community
Antenna System, Inc. d/b/a Viacom Cablevision (Viacom).

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Monica Power at 684-8076.

Sincerely,

Norman B. Rice
Mayor

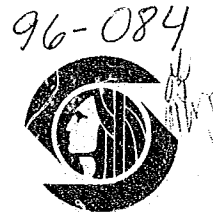
by



Tom Tierney, Director

legis:power64

Enclosure




96-084
COPY RECEIVED
56 APR -2 AM 11:22
CITY ATTORNEY

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TIME AND DATE _____ AMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:



FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
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STATE OF WASHINGTON - KING COUNTY

67421
City of Seattle, City Clerk

No. ORDINANCE IN

City of Seattle

ORDINANCE 118092

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WHEREAS, the City has reached agreement with TCI of Seattle, Inc. and Summit Communications, Inc. for 10 year franchises that call for, among other things, a franchise fee of 5% of gross revenues, with a partial credit for utility taxes; and

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WHEREAS, the City believes that it is in its best interest to extend the existing franchise to allow full opportunity to reach an agreement on the terms and conditions of a renewed franchise should the transfer not take place. Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE, AS FOLLOWS:

Section 1. The Mayor of the City of Seattle is authorized to execute a cable television franchise extension agreement in substantially the form set forth in Exhibit A with Viacom.

Section 2. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 15th day of April, 1996, and signed by me in open session in authentication of its passage this 15th day of April 1996.

JAN DRAGO,
President of the City Council.
Approved by me this 18th day of April, 1996.

NORMAN B. RICE,

Mayor.

Filed by me this 18th day of April, 1996.

JUDITH E. PIPPIN,

City Clerk.

At Publication ordered by JUDITH PIPPIN, City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, May 1, 1996.
6/1(67421)

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CTORD: 118092

was published on

05/01/96

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Subscribed and sworn to before me on

05/01/96

Notary Public for the State of Washington,
residing in Seattle

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